

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TODD C. BANK, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

LIFEWATCH INC. and LIFEWATCH SECURITY INC.,
each doing business as Lifewatch-USA, and
SAFE HOME SECURITY, INC.,

Defendants.

1:15-cv-02278-CBA-VMS

DECLARATION OF TODD C. BANK

1. I am the plaintiff in the above-captioned matter.
2. On February 20, 2015, I received a telephone call (the “Subject Call”) that, according to the Caller ID display on my telephone, was from “West Plains, MO[;] 417-204-5238.”
3. The telephone number to which the call was placed was (718) 521-6043 (the “Receiving Number”), which was provided as a voice-over-internet-protocol (VOIP) line from Ooma, Inc (“Ooma”). Specifically, in 2008, I had ‘ported,’ to Ooma, a Verizon landline telephone number, (718) 261-2482, which had been registered as a residential line and which had been, and continued to be, answered at my place of residence. Ooma did not designate the line in any particular way, although Ooma did provide business services, none of which I had obtained.
4. Included with Ooma’s service was a second telephone number, and so I accepted Ooma’s offer, and was given the Receiving Number, which could receive calls but could not be used for outgoing calls.
5. Since 1998, I have had two landline telephone numbers at all times, with the exception (if, indeed, it is considered an exception), when I had the additional Ooma number (which

I did until I switched to a different service provider that did not offer an extra number, meaning that, since that time, *i.e.*, approximately two years ago, I have had two landline numbers). I did not obtain either phone number for the purpose (whether solely or in part) of being able to bring legal actions, whether under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”), or otherwise.

6. After having answered the Subject Call and hearing prerecorded material, I pressed a key on my telephone to be transferred, after which a live person (the “First Live Person”) came on the line. The First Live Person said that the call had been from “Endless Medalert” and that the number that had been dialed was the Receiving Number. From my extensive research and experience, I learned that “Endless Medalert” is a fictitious name used by one or more “call centers” (I was not surprised, for I had also received prerecorded-message calls in which, as here, I was transferred to a live person after having answered the phone and hearing prerecorded material and then being told by a live person that the call had been made by “Endless Medalert.”).

7. I gave, to the First Live Person, the following alias: Carl Longonne, The First Live Person transferred me to a second live person (the “Second Live Person”), who told me that he was employed by “LifeWatch USA,” that LifeWatch USA’s website is lifewatch-usa.com, and that he was located at Lifewatch’s headquarters and that its address was 55 Sebeth Drive, Cromwell, Connecticut. He also stated that Lifewatch also has an office in Lynbrook, New York. *See also* Sirlin Decl., Att. “A,” p.15 (showing that Lifewatch as an address in Lynbrook, New York, and that Lifewatch’s domain name is lifewatch-usa.com).

8. On April 2, 2015, I called Safe Home Security at 800-833-3211 and spoke to a person who identified himself as Chris, and who said that “Lifewatch is our sister company.” Chris transferred me to a person who identified himself as Larry. At one point, Larry identified the company for which he was working as “Lifewatch/Medical Alarm Systems/Medguard Alert,” and,

at another point, as “Lifewatch USA-Medical Alarm Systems.”

9. In a second call that I made, also on April 2, 2015, to Safe Home Security at 800-833-3211, I spoke to a person who identified himself as Jared, and who stated that “we have a sister company called Lifewatch or Medguard.”

10. In a third call that I made, also on April 2, 2015, to Safe Home Security at 800-833-3211, I spoke to a person who identified himself as Hector, who transferred me to Lifewatch, upon which I spoke to a person who identified himself as Kevin and said that “Safe Home Security is the parent company to Lifewatch.” When I gave him the Receiving Number, he asked if I was Carl Longonne.

11. On June 17, 2016, I called Safe Home Security, again at 800-833-3211, and spoke to a person who identified himself as Jamie (male). Jamie said the following:

- a. “Lifewatch is our department that deals with medical pendants and medical-alert systems”;
- b. “We’re under the same group. We work in the same exact building”;
- c. “Lifewatch is here and then we have another building down the road where we have a Lifewatch call center as well, and we have another building that we’re creating to have -- we’re actually building an entire other building, which is about a mile and half away from where we are now, and we’re going to have a couple of more centers set up there as well, it’s gonna be fantastic. It should be done by the end of the year”;
- d. “We do the service, if there’s something the matter with it we can send a technician out to take a look at it troubleshooting, set-up, activation. If someone actually presses the button, we would call, we would respond, we would be able to dispatch. We do the billing. Everything.”

When I asked Jamie, “What does Lifewatch actually do differently than what you do?,” he responded as follows: “[i]t’s the same thing, it’s really pretty much the same exact thing. We are

Lifewatch. We own Lifewatch.”

Jamie also stated: “If you called Lifewatch, that call is coming to this building,” and “if you call their 1-800 number, that 1-800 number rings here, and there’s a branch, you select 1 for Lifewatch and it brings you to that department.”

When I asked Jamie: “Does that mean I’m really speaking to someone from Safe Home?,” he responded as follows: “Yeah.”

When I asked Jamie: “Does Lifewatch have its own people there or what?,” he responded as follows: “Yeah, it’s like having a different department, essentially, so we have our customer-support department, customer-care department, we have a dealer-support department that deals with different dealers. It’s all in the same building, it’s all under the same roof. A different department. Let’s say I wanted to call billing, I would dial the billing extension, or if I want to get a hold of Lifewatch, I can dial Lifewatch. For example, if you called our 1-800 number, and the phone picked up and you put in extension 1850, that would bring you directly to Lifewatch.”

I then asked Jamie: “But that would be still be physically in your location?”

Jamie responded: “Yeah.”

I also asked Jamie: “If I get a Lifewatch medical-alarm system, who am I paying? Am I paying Lifewatch, am I paying Safe Home? Or what?”

Jamie responded: “It’s most likely going to be Safe Home, it’s gonna come in as Security Systems Incorporated.”

I then asked Jamie: “And what is Security Systems Incorporated?”

Jamie responded: “That’s who we are. That’s what we show up on under the billing, it’s Security Systems Incorporated.”

I also asked Jamie: “Let’s say Lifewatch has a separate office, and I go there and I walk in

and I sign up for a medical alarm system, does Safe Home have anything to do with that system?”

Jamie responded: “Yeah.”

I then asked: “And what is that exactly?”

Jamie responded: “That would be creation of the account, activating the equipment, shipping the equipment, essentially everything.”

I also asked Jamie: “Is there something called Medguard there?”

Jamie responded: “We’re also Medguard, yes.

Finally, Jamie told me that his direct telephone number is 1-800 833 3211, extension 1140.

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

s/ **Todd C Bank**
Todd C. Bank
Executed on March 9, 2017